

REMARKS

The following issues are outstanding in the pending application:

- Claims 1-7, and 9 are rejected under 35 USC 102; and
- Claim 8 is rejected under 35 USC 103.

Claim Amendments

Claim 1 has been amended to recite a container body having a closed lower end with a floor section adjacent the lower end, an open upper end and side walls between them and a cap for closing the open end of the container body. An indentation in the outer surface of the floor section projects into the interior of the container body and forms the connection means of the floor section of the container body. Claim 5 has been amended to recite that the connection means of the cap comprises at least one projection on an inside surface of the cap that projects outwardly and engages at least one indentation in the lower end of the container. Support for this amendment is shown in Fig. 3. No new matter has been added.

35 USC 102

Claims 1-7 and 9 are rejected under 35 USC 102(b) as having subject matter anticipated by U.S. Pat. No. 5,220,999 to Goulette. Applicant respectfully traverses this rejection.

Goulette discloses a nestable hinged container for displaying and storing articles. The container includes a lid 12, a receptacle 20 and a base 22. The lid 12 has an outwardly projecting peripheral rim flange 32 and an concave portion 14 that projects inwardly towards the interior of the container. The base 22 terminates at its top in an uppermost edge 24. As shown in Figs. 2 and 3, the base tapers inwardly from the edge 24 and projects outwardly from the periphery side wall 26 of the receptacle 20. The outwardly projecting base 22 has a convex shape that corresponded to the inwardly projecting concave portion 14 of the lid 12.

A claim is anticipated only if each and every element as set forth in the claim is found either expressly or is inherently described in a single prior art reference. *Verdegaal Bros. V Union Oil Co. of California*, 814 F.2d 628, 631 (Fed. Cir. 1987). Applicant respectfully

submits that nowhere does the Goulette reference teach or disclose a packaging unit in which an indentation in the outer surface of the floor section projects into the interior of the container body and forms the connection means of the floor section of the container body for connecting with at least one projection on an inside surface of the cap that projects outwardly and engages the indentation in the lower end of the container. In Goulette, the base 22 projects outwardly from the periphery side wall 26 of receptacle 20 and has a convex shape that corresponded to the inwardly projecting concave portion 14 of the lid 1. There is no indentation in the base that projects into the interior of the container body as recited in claim 1, nor is there a projection on an inside surface of the cap that projects outwardly. Therefore, Applicant respectfully submits that since Goulette fails to teach or suggest each and every limitation of amended claim 1, a rejection, under 35 U.S.C. 102(b) cannot be sustained. Since claims 2-7 and 9 dependent at least in part upon amended claim 1, they also by definition are not anticipated by the Goulette reference. Accordingly, Applicant respectfully requests reconsideration and withdrawal of the outstanding rejection of claims 1-7 and 9 under 35 U.S.C. 102(b) as having subject matter anticipated by U.S. Pat. No. 5,220,999 to Goulette.

35 USC 103

Claim 8 is rejected under 35 USC 103(a) as having subject matter unpatentable over Goulette in view of U.S. Pat. No. 4,787,552 to Natori. Applicant respectfully traverses this rejection.

Natori is directed to a case having a case body a lid that is connected to the case body through a hinge provided on one side with an open edge of the case body. An engaging tab and a slot are provided oppositely on the lid edge and the case body edge on the opposite side to the hinge. The case is formed from polypropylene.

Applicant respectfully submits that the previous discussion of the patentability of the current invention over Goulette obviates the present rejection. The Natori reference adds no new teaching to the Goulette reference that would result in the packaging unit of amended claim 1. Claim 8 depends from amended independent claim 1, includes all of the limitations of amended claim 1, and therefore is also nonobvious. If an independent claim is nonobvious under 35 U.S.C. § 103 then any claim depending therefrom is by definition nonobvious. *In re*

Fine 5 U.S.P.Q.2d 1596 (Fed Cir, 1988). Applicant asserts that because of its dependency from amended independent claim 1, claim 8 is nonobvious over Goulette in combination with Natori. Accordingly, Applicant respectfully requests reconsideration and withdrawal of the rejection of claim 8 under 35 USC 103(a) as having subject matter unpatentable over Goulette in view of U.S. Pat. No. 4,787,552 to Natori.

CONCLUSION

In view of the above, applicant believes the pending application is in condition for allowance.

Applicant believes no fee is due with this response. However, if a fee is due, please charge our Deposit Account No. 06-2375, under Order No. HO-P03030US0 from which the undersigned is authorized to draw.

Dated: July 30, 2008

Respectfully submitted,

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